

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES CONWAY, ANTONIO
HUDSON, JOSE RODRIGUEZ, and
JEFFREY BROWN,

Plaintiffs,

v.

Case No. 13-cv-10271
Honorable Patrick J. Duggan

BRAD PURVES, DON SPAULDING,
GLEN KUSEY, LLOYD RAPELJE,
DANIEL H. HEYNS, DENNIS STRAUB,
MITCH PERRY, JEFFREY LARSON,
TOM BURKETT, CATHERINE S. BAUMAN,
RICC RICCIARDI, and UNIDENTIFIED
DEFENDANTS NOS. 1-3,

Defendants.

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**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE
KOMIVES' FEBRUARY 2, 2014 REPORT AND RECOMMENDATION
(ECF NO. 66); (2) DENYING AS MOOT DEFENDANTS KUSEY'S,
PURVES', AND RAPELJE'S MOTION TO DISMISS (ECF NO. 10) AND
DEFENDANT SPAULDING'S MOTION TO DISMISS (ECF NO. 13); AND
(3) DENYING DEFENDANTS KUSEY'S, PURVES', RAPELJE'S AND
SPAULDING'S MOTION TO STRIKE AND FOR A MORE DEFINITE
STATEMENT (ECF NO. 40)**

In this lawsuit, Plaintiffs challenge the nutritional adequacy of the meals provided to Michigan Department of Corrections' prisoners during the Islamic month of Ramadan. Plaintiffs claim that during this period they are forced to violate their sincerely-held religious beliefs that require fasting during Ramadan or

the consumption of only halal food or consume a nutritionally deficient diet.

Presently before the Court are the following motions:

- A motion to dismiss Plaintiffs' initial complaint filed by Defendants Glenn Kusey, Brad Purves, and Lloyd Rapelje on April 3, 2013 (ECF No. 10);
- A motion to dismiss Plaintiffs' initial complaint filed by Defendant Don Spaulding on April 5, 2013 (ECF No. 13); and
- A motion to strike and for a more definite statement filed by Defendants Kusey, Purves, Rapelje, and Spaulding on July 1, 2013 (ECF No. 40), which is directed at Plaintiffs' second amended complaint.

The Court has referred this action to Magistrate Judge Paul J. Komives for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 11.) On February 12, 2014, Magistrate Judge Komives issued a R&R recommending that this Court deny as moot the motions to dismiss addressed to Plaintiffs' initial complaint and deny Defendants' motion to dismiss and for a more definite statement addressed to Plaintiffs' second amended complaint. (ECF No. 66.)

At the conclusion of his R&R, Magistrate Judge Komives advises the parties that they may object to and seek review of the R&R within fourteen days of service

upon them. (*Id.* at 15.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Komives. The Court therefore adopts the recommendations therein.

Accordingly,

IT IS ORDERED that Defendants Kusey’s, Purves’, and Rapelje’s motion to dismiss (ECF No. 10) and Defendant Spaulding’s motion to dismiss (ECF No. 13) are **DENIED AS MOOT**;

IT IS FURTHER ORDERED that Defendants Kusey’s, Purves’, Rapelje’s, and Spaulding’s motion to strike and for a more definite statement (ECF No. 40) is **DENIED**.

Dated: March 10, 2014

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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Magistrate Judge Paul J. Komives